THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.22391 OF 1996

DATED: 14TH NOVEMBER, 2006.

Between :

Karri Venkata Ramana Reddy .. Petitioner

And

1. The Special Deputy Tahsildar (TW),
   Rampachodavaram, East Godavari District
   And others. .. Respondents

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WRIT PETITION NO.22391 OF 1996

ORDER :

The petitioner who is a non-tribal filed this writ petition questioning the order passed by the 2nd respondent – The Agency Divisional Officer and Sub-Divisional Magistrate, Rampachodavaram, East Godavari District dated 11-9-1996 under the provisions of the Andhra Pradesh Scheduled Areas Land Transfer Regulation (Regulation 1 of 1959).

I have heard the learned Counsel for both the parties and perused the material on record.

The impugned order shows that on a complaint made by the Special Deputy Tahsildar, Rampachodavaram, proceedings were initiated under Section 3 of Regulation 1 of 1959 for restoration of the land to an extent of 4-25-0 hectares situated in survey numbers of Penikelapadu, H/o. Manturu village, Devipatnam Mandal, East Godavari District. Accordingly a notice in Form-E was issued to the petitioners herein under Rule 7 (2) of the A.P. Scheduled Areas Land Transfer Rules, 1969 (for short, 'the Rules') alleging that he is found to be in possession of the property specified in the schedule in contravention of sub-section (1) of Section 3 of Regulation 1 of 1959 and calling upon them to show-cause within 3 days from the date of receipt of the notice as to why they should not be ejected from the land in question and why the same should not be restored to the transferor or his legal heirs. In the notice, it was also stated that the enquiry stands posted to 13-8-1996. The petitioner pleaded that the said

notice was served on him on 11-8-1996. Pursuant thereto, though he appeared before the 2nd respondent, he could not file counters. It is alleged that in spite of the request made by him, he was not granted time for filing counter and the impugned order dated 11-9-1996 was passed holding that the petitioner has no legal claim over the petition schedule land. The petitioner contends that the findings recorded by the 2nd respondent are incorrect and without any basis and at any rate since no proper opportunity was given to him to contest the proceedings by filing a counter the entire proceedings are vitiated and the impugned order of ejection being violative of principles of natural justice is liable to be set aside.

In the counter-affidavit filed on behalf of the respondents, it is stated that the notice to show-cause was signed by the 2nd respondent on 9-8-1996 and the matter was taken up for enquiry on 12-8-1996 and 14-8-1996.

It is relevant to note that Rule 7 of the Rules provides that on initiation of proceedings under Section 3 of the Regulation 1 of 1959 the notice shall be given to any person in possession of the property claiming under the transfer to show-cause within the period specified in the notice which shall not be less than 15 days from the date of its service as to why he should not be ejected.

A perusal of the notice dated 9-8-1996 itself makes it clear that the same was not in terms of Rule 7 (1) of the Rules. As a matter of fact, the plea of the petitioner is that fifteen (15) days time as required under Rule 7 (1) of the Rules was not given to him has been admitted in the counter-affidavit filed on behalf of the respondents.

In the circumstances, on the face of it, the impugned order was not only contrary to the statutory provisions but also in violation of the principles of natural justice and on that ground alone the same is liable to be set aside.

W.P.No.21409 of 1996 filed by similarly situated persons was

allowed by this Court by order dated 26-9-2005 upholding the contention that there was no valid notice as required under Rule 7 of the Rules.

Accordingly, the impugned order dated 11-9-1996 is set aside with a direction to the 2nd respondent to consider the matter afresh and pass appropriate orders in accordance with law. The petitioner is granted liberty to file his explanation/counter to the show-cause notice dated 9-8-1996 raising all the grounds as available under law within six weeks from the date of receipt of this order. Thereafter, the 2nd respondent shall follow due process of law and pass appropriate orders in accordance with law.

Writ Petition is accordingly allowed. No costs.

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G. ROHINI, J.

Dt. 14-11-2006

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